



January 9, 2003

02-CV-F
Addendum

Peter G. McCabe, Secretary
Committee on Rules of Practice and Procedure
of the Judicial Conference of the United States
Thurgood Marshall Federal Judiciary Building
Washington, DC 20544

Re: Additional Proposed Amendment to the Federal Rules of Civil Procedure

Dear Mr. McCabe:

Previously, I submitted to the Advisory Committee on Civil Rules several proposed amendments to the Federal Rules of Civil Procedure based upon my article, *Action Is an Action Is an Action*, 77 Wash. L. Rev. 65 (2002). I would like to submit one additional proposed amendment: Rule 55(a) should provide that a default also may be entered against a defending party "for failure to comply with these rules or any order of court." Though the Rules provide that a defending party (like a claiming party) may be defaulted for certain, particular rules violations (such as the rules governing pretrial conferences and discovery; *see* Rules 16(f), 37(b)-(d)), there does not appear to be any general default rule analogous to that found with respect to claimants contained in Rule 41(b) (the rule governing involuntary dismissals). As I noted in my article (at 126 n.254), I believe this omission to be unintentional, and that such an amendment would not be controversial (and indeed would be welcomed). I would appreciate it if you could please forward this additional proposal to the Committee for consideration.

Thank you again for your assistance. If the Committee should have any questions regarding my proposals or if I can help in any way, please let me know; my direct telephone number is (208) 885-7842, and my e-mail address is <bshannon@uidaho.edu>. Please also consider me available for Committee meetings or hearings, either in person or by conference call.

Very truly yours,

Bradley Scott Shannon
Visiting Associate Professor